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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,148	03/31/2000	Peter T Fry	80934F-P	1747

1333 7590 01/16/2003

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EXAMINER	
CHANG, SABRINA A	
ART UNIT	PAPER NUMBER

3625

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/540,148

Applicant(s)

FRY ET AL.

Examiner

Sabrina Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 October 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7, 10-17, 20-27, 30 and 40-76 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7, 10-17, 20-27, 30 and 40-76 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 31 March 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION***Response to Amendment***

Examiner acknowledges applicant's amendments to claims 1, 11 and 21; cancellation of claims 8, 9, 19, 28, 29, 31-39; and addition of claims 41-76 as received in the response dated October 22, 2002.

Response to Arguments

Applicant's arguments, filed October 22, 2002, with respect to the original claims 1-7, 11-17, and 21-27 have been fully considered, but they are not persuasive. Applicant has inferred that Jebens et al. is not related to the invention. Examiner respectfully asserts that Jebens et al. discloses a system that allows users to use low-resolution images to order to reduce the bandwidth requirement for transmission of order requests [Col 3, Line 15]. The reasoning is similar to that used in the instant invention.

Applicant's arguments with respect to amended claims 1-7, 11-17, 21-27 and 40-76 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 50-64 recite the limitation "said remote image service provider" in section a) of claim 50. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 11-17, 21-27, and 40-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jebens U.S. Patent no 6,321,231, as rejected in Office Action dated June 20, 2002, in view of Sparks et al. U.S. Patent No. 6, 167, 382.

Jebens et al. discloses an Internet-based system (communications network) for obtaining a low and high resolution digital image file, transmitting the low resolution image to a server at a remote image provider over a communication network and the server having software 10/14/16 for manipulating and/or ordering goods/services related to the image, using the software to edit the images and transmitting the high resolution digital image file after using the software [Figures 1-2 and 10f, Col 2-3]. The software comprises viewing the image on a display using the low resolution file and manipulating the image [Col 10]. Software comprises placing an order for goods and services related to the image. The remote image service provider fulfills the order and the meta data used by the image provider is also transmitted. [Col 8, 17-21].

The system of Jebens et al. also discloses including a high resolution scanner [Col 6] and a camera/computer, disc memory storage device or a CD having a high resolution digital image [Col 5, Lines 54-60 & Col 6, Line 18-37]. Jebens et al. also discloses that the low resolution category encompasses 100 pixels to 800 pixels (claims 37-38). Small variations of pixel resolution are inherently within the scope of Jebens et al. The resolution of the low-grade file is no greater than 50% of the high resolution file [Col 9, Line 45-60].

Jebens et al. does not explicitly disclose providing feedback to the user based upon meta-data or the image.

Sparks et al. discloses a system whereby a client may view a series of low resolution images and assemble these images and text into a marketing piece for production by the system proprietor (service provider) [Abstract]. The client can create the assembly with additional custom text and information (added meta data). The assembly can be limited by the service provider (providing automated feedback to the customer's production requests) [Col 2, Line 64]. Once the assembly is complete the client sends the order to the service provider who returns a draft of the assembly, opening a channel of communication for approval or revisions [Col 3, Line 11].

It would have been obvious to one of ordinary skill in the art to modify the system of Jebens et al. to include the open channel of communication between the service provider and the client, as taught by Sparks et al., in order to facilitate the process of adequately filling the customer's original request thereby further ensuring customer satisfaction.

The system of Jebens et al./Sparks et al. does not explicitly provide for "feedback" from the service provider regarding the quality of the image.

However, in that the system would provide for an open channel of communication between these two parties it would have been obvious that possible interactions would include discussion of the image's sufficient quality or lack thereof.

Claims 10, 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jebens U.S. Patent no 6,321,231, as rejected in Office Action dated June 20, 2002,

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in view of Sparks et al. U.S. Patent No. 6, 167, 382, as rejected in Claims 1, 11 and 21, in further view of Sacca et al. U.S. Patent No. 6,380,967.

The system of Jebens et al./"Multiple"/Sparks et al. does not explicitly provide that the transmission of image data can be interrupted and resumed at the same place where the transmission was interrupted. Sacca shows a method for consistent transmission of image data. Given the unreliability of communications' networks it would have been obvious to modify the system of Jebens et al./"Multiple"/Sparks et al. to provide for the ability to provide consistent transmission of image data, as taught by Sacca et al., in order to prevent customer frustration at having to restart the image transmission process during an interruption.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Garfinkle et al. U.S. Patent No. 6,017,157 discloses a method of processing at least one digital image of a photograph and distributing a print or related items produced from the image. Garfinkle et al. does not explicitly disclose the transmission of low resolution image from the consumer to the service provider with associated meta data and subsequent transmission of the desired print, in high resolution form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703 308 1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 305 7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC

January 13, 2003


SABRINA CHANG
USPTO-3625